

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

IN RE: PROVIDENCE WATER SUPPLY BOARD) DOCKET NO. 4994
COST OF SERVICE COMPLIANCE FILING)

DIVISION’S OBJECTON TO BCWA’S
MOTION IN LIMINE

In an e-mail dated February 3, 2022, Bristol County Water Authority (“BCWA”) acknowledged that its *Motion in Limine* did not have “to be ruled on before the hearing.” BCWA explained that “[u]nlike a jury trial, where you would have to decide whether evidence is to be excluded from being submitted to the jury,” it didn’t “think the issues raised necessarily have to be resolved before the hearing starts. The Commission sits as the factfinder and will also decide on the motion...” At a February 8, 2022 pre-hearing conference, BCWA again acknowledged that its *Motion in Limine* more closely resembled a “pre-hearing brief” that addressed the merits of BCWA’s concerns about the Commission’s consideration of the Pare Hydraulic Model (“Model”) in the pending matter, thus confirming the substance of its February 3, 2022 e-mail. Despite the fact that BCWA does not seek a preliminary ruling on the issue(s) addressed in its motion, the Division objects to the motion to preserve the record in the event the Commission rules otherwise.

Unlike a typical docket before the Commission where the decision about the kind of evidence to develop and present is in the control of the individual parties in the docket, the development of the Model came about because the Commission ordered PWSB to develop individual wholesale rates which take “into account all relevant factors, in a manner that is fair to all affected parties.” *Docket No. 4994, Order No. 23928 at 33*. On September 23, 2020, after the Commission issued its directive, BCWA insisted that the Providence Water Supply Board

("PWSB") "run a hydraulic model." *Smith Rebuttal at 6*. In developing the Model, PWSB has merely attempted (at significant cost to ratepayers) to comply with the directive of the Commission and BCWA's desires. For eight (8) months, moreover, all of the parties, including BCWA, have been aware of PWSB's efforts in this regard without expressing any opposition (until BWCA's *Motion in Limine*) as to the introduction of the Model in evidence at hearing. Under these circumstances it would be patently unjust and unfair to exclude the Model from the Record on an evidentiary basis, rather than considering the merits of the Model itself through the hearing process. Accordingly, the Commission should deny BCWA's *Motion in Limine*, permitting the Division (and the other parties) to reserve their rights to address BCWA's arguments *relating to the underlying merits of the Model* through the hearing process.

Respectfully submitted,

DIVISION OF PUBLIC UTILITIES AND
CARRIERS,
By its attorneys,

/s/ Leo J. Wold

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CERTIFICATE OF SERVICE

I certify that a copy of the within objection was forwarded by e-mail to the parties on the Service List in Docket No. 4994 on the 10th day of February, 2022.

/s/ Leo J. Wold
